

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN HAMILTON, et al.,

Plaintiffs,

vs.

Case No. 01-CV-74698

SUSAN HALL, et al.,

HON. AVERN COHN

Defendants.

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**ORDER**

This is a civil rights case under 42 U.S.C. §§ 1983 and 1985 with pendent state claims. Broadly stated, plaintiffs claim that defendants conspired to deprive them of their civil rights arising out of the operation of topless bars/sexually oriented business owned by John Hamilton. Plaintiffs seek injunctive relief and damages.

Plaintiffs filed a motion to amend or supplement the complaint and a motion for relief from the Court's April 28, 2003, order dismissing the state defendants on abstention grounds. The Court granted in part and denied in part the motions. See Order filed September 30, 2005.

Before the Court is plaintiffs' motion for relief from the Court's September 30, 2005 order. Plaintiffs first say that the Court failed to address the proposed addition of the City of Romulus and Michael Ondejko as defendants and failed to clarify that plaintiffs' fourth amended complaint was submitted as a proposed amended complaint,

not an actual complaint.

The Court did not address the “addition” of the City of Romulus and Michael Ondejko as defendants because they were already listed as defendants in plaintiffs’ Third Amended Complaint in the Local Case, filed December 20, 2002. However, to the extent that plaintiffs require permission to add them as defendants, such permission is granted. Moreover, the Court’s instructions as to the form of filing of the Fourth Amended Complaint in the Local Case did not mention the City of Romulus or Michael Ondejko. Accordingly, consistent with the Court’s September 30, 2005 Order, plaintiffs’ Fourth Amended complaint in the Local Case shall include the City of Romulus and Michael Ondejko as defendants. The complaint shall be captioned in categories, as follows:

- Southgate and the individual defendants
- Van Buren and the individual defendants
- Inkster and the individual defendants
- City of Romulus and individual defendant(s)

The complaint shall be divided into sections, as follows:

- common allegations
- allegations against Inkster
- allegations against Van Buren
- allegations against Southgate
- allegations against City of Romulus

As to whether plaintiffs previously filed Fourth Amended Complaint was intended to be a proposed complaint, not an actual filed complaint, this exalts form over

substance. The Court sees no need to clarify its order on this point. In any event, the Court does not consider plaintiffs previous filing to be otherwise improper. It should be clear that regardless of how plaintiffs' previous filing is characterized, the Court directed them to file two Fourth Amended Complaints as described in the September 30, 2005 Order. Plaintiffs filed the two complaints on October 10, 2005. Because plaintiffs may add the City of Romulus and Michael Ondejko to the Local Case, they shall file, no later than Monday, October 17, 2005, a pleading entitled "Corrected Fourth Amended Complaint" in the Local Case which includes these defendants.

SO ORDERED.

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: October 12, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 12, 2005, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager  
(313) 234-5160